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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,062	01/10/2002	Dirk Leuenberger	AQST118018	6535

26389 7590 02/24/2004

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EXAMINER

BECKER, DREW E

ART UNIT PAPER NUMBER

1761

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/044,062

Applicant(s)

LEUENBERGER, DIRK

Examiner

Drew E Becker

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1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 14 is dependent upon itself. It is not clear what claim it should depend from.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sagan et al [Pat. No. 6,042,856] in view of Lin [Pat. No. 6,514,548] and Porter [Pat. No. 1,949,285].

Sagan et al teach a shrimp tray comprising a base (Figure 1, #14), an annular shelf with radial grooves (Figure 2, #58), an outer groove (Figure 2, #62), a cup holder (Figure 2, #50), a condiment cup which extends up to the cover (Figure 4, #72), a transparent cover (Figure 2, #12, column 7, line 8), an outer sidewall with a protrusion which

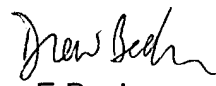
engages a depression in the cover and acts as a locking mechanism (Figure 3a, #30 & 42), the outer sidewall being coplanar with the annular shelf (Figure 4), a base flange and a cover flange which are coplanar with the lower panel of the cup holder (Figure 4, #34, 36, 50), a depression in the cover which accommodates stacking (Figure 2, #22), Sagan et al do not recite an inner circumferential groove, a lid for the condiment cup, and a cylindrical wall that extends higher than the annular shelf. Lin teaches a shrimp tray comprising a condiment cup with a lid (Figure 7, #42). Porter teaches a food tray comprising an inner circumferential groove (Figure 2, #14) and a cylindrical wall that extends higher than the annular shelf (Figure 2, #12). It would have been obvious to one of ordinary skill in the art to incorporate the lid of Lin into the invention of Sagan et al since both are directed to shrimp trays, since Sagan et al already included a condiment cup (Figure 4, #72), and since the lid of Lin would have prevented the condiment from spilling during transport. It would have been obvious to one of ordinary skill in the art to incorporate the inner groove and higher cylindrical wall of Porter into the invention of Sagan et al since both are directed to food trays, since Sagan et al already included an outer groove for drainage (Figure 2, #62), a wall (Figure 2, #52) and an inner trough (Figure 4, #50), since the inner groove of Porter acted as a drainage channel (page 1, lines 51-66), since the higher wall of Porter would have held more food, and since Sagan et al teach that the height and shape of the tray may vary (column 7, lines 12-18).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Thur. 8am-5pm and every other Fri. 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Drew E Becker  
Primary Examiner  
Art Unit 1761

2-12-04